

## In the Claims

**1. (currently amended)** A process for the preparation of a grafted thermoplastic or elastomeric polymer or copolymer, which process comprises in a first step

A) the preparation of a nitroxyl terminated oligomer or polymer by controlled free radical polymerization of an ethylenically unsaturated monomer or monomer mixture

a1) in the presence of a nitroxyl ether containing a structural element of formula (Ia), wherein X is selected such, that cleavage of the O-X bond occurs and a radical X• is formed capable of initiating polymerization; or

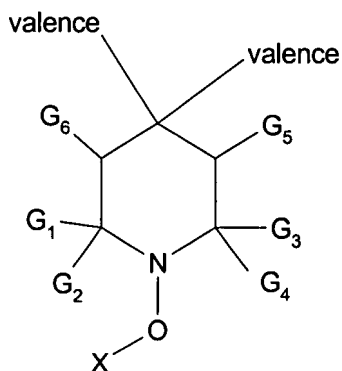
a2) in the presence of a nitroxyl radical containing a structural element of formula (Ib) and a free radical initiator capable of initiating polymerization;

where unreacted monomer or monomers are removed and the nitroxyl terminated oligomer or polymer is isolated,

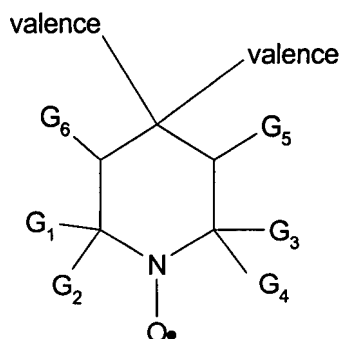
and in a second step

B) heating, mixing and reacting the nitroxyl terminated oligomer or polymer of step A) together with a thermoplastic or elastomeric polymer or copolymer at a temperature of between 150° C and 300° C,

wherein the structural elements of formula (Ia) and (Ib) are



(Ia)



(Ib)

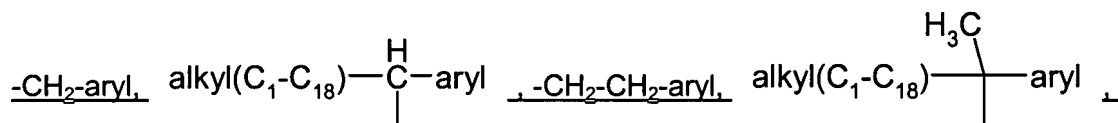
wherein

G<sub>1</sub>, G<sub>2</sub>, G<sub>3</sub>, G<sub>4</sub> are independently C<sub>1</sub>-C<sub>6</sub>alkyl or G<sub>1</sub> and G<sub>2</sub> or G<sub>3</sub> and G<sub>4</sub>, or G<sub>1</sub> and G<sub>2</sub> and G<sub>3</sub> and G<sub>4</sub> together form a C<sub>5</sub>-C<sub>12</sub>cycloalkyl group; and

G<sub>5</sub>, G<sub>6</sub> independently are H, C<sub>1</sub>-C<sub>18</sub>alkyl, phenyl, naphthyl or a group COOC<sub>1</sub>-C<sub>18</sub>alkyl<sub>1</sub>

where

X is selected from the group consisting of



(C<sub>5</sub>-C<sub>6</sub>cycloalkyl)<sub>2</sub>CCN, (C<sub>1</sub>-C<sub>12</sub>alkyl)<sub>2</sub>CCN, -CH<sub>2</sub>CH=CH<sub>2</sub>, (C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-(C<sub>1</sub>-C<sub>12</sub>)alkyl,

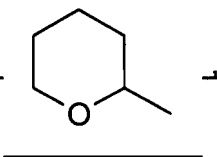
(C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-(C<sub>6</sub>-C<sub>10</sub>)aryl, (C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-(C<sub>1</sub>-C<sub>12</sub>)alkoxy,

(C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-phenoxy, (C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-N-di(C<sub>1</sub>-C<sub>12</sub>)alkyl,

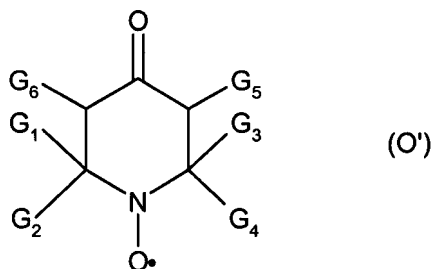
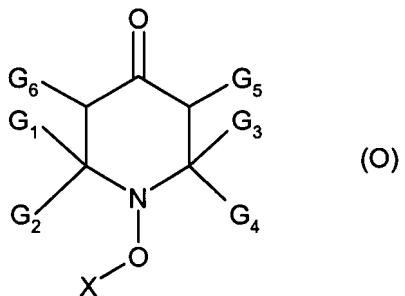
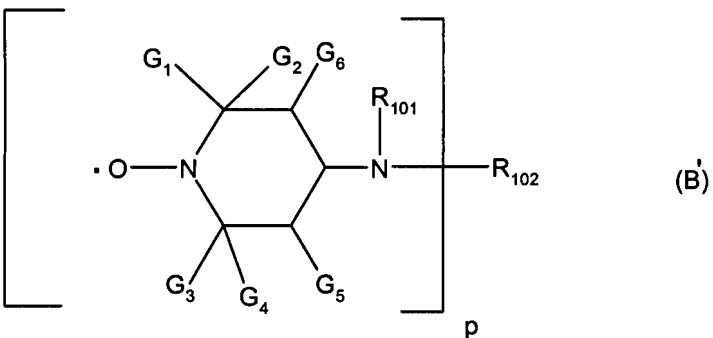
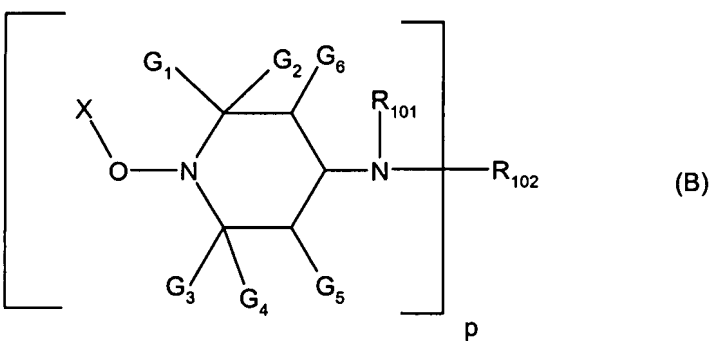
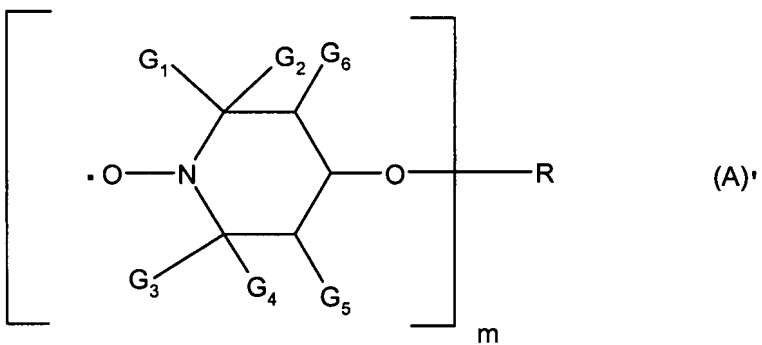
(C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-CO-NH(C<sub>1</sub>-C<sub>12</sub>)alkyl, (C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-CO-NH<sub>2</sub>,

-CH<sub>2</sub>CH=CH-CH<sub>3</sub>, -CH<sub>2</sub>-C(CH<sub>3</sub>)=CH<sub>2</sub>, -CH<sub>2</sub>-CH=CH-phenyl, -CH<sub>2</sub>-C $\equiv$ CH

3-cyclohexenyl, 3-cyclopentenyl,







wherein

G<sub>1</sub>, G<sub>2</sub>, G<sub>3</sub> and G<sub>4</sub> are independently alkyl of 1 to 4 carbon atoms, or G<sub>1</sub> and G<sub>2</sub> together and G<sub>3</sub> and G<sub>4</sub> together, or G<sub>1</sub> and G<sub>2</sub> together or G<sub>3</sub> and G<sub>4</sub> together are pentamethylene;

G<sub>5</sub> and G<sub>6</sub> are independently hydrogen or C<sub>1</sub>-C<sub>4</sub> alkyl;

m is 1, 2, 3 or 4

R, if m is 1, is hydrogen, C<sub>1</sub>-C<sub>18</sub>alkyl which is uninterrupted or C<sub>2</sub>-C<sub>18</sub>alkyl which is interrupted by one or more oxygen atoms, cyanoethyl, benzoyl, glycidyl, a monovalent radical of an aliphatic carboxylic acid having 2 to 18 carbon atoms, of a cycloaliphatic carboxylic acid having 7 to 15 carbon atoms, or of an  $\alpha,\beta$ -unsaturated carboxylic acid having 3 to 5 carbon atoms or of an aromatic carboxylic acid having 7 to 15 carbon atoms, where each carboxylic acid can be substituted in the aliphatic, cycloaliphatic or aromatic moiety by 1 to 3 -COOZ<sub>12</sub> groups, in which Z<sub>12</sub> is H, C<sub>1</sub>-C<sub>20</sub>alkyl, C<sub>3</sub>-C<sub>12</sub>alkenyl, C<sub>5</sub>-C<sub>7</sub>cycloalkyl, phenyl or benzyl; or

R is a monovalent radical of a carbamic acid or phosphorus-containing acid or a monovalent silyl radical;

R, if m is 2, is C<sub>2</sub>-C<sub>12</sub>alkylene, C<sub>4</sub>-C<sub>12</sub>alkenylene, xylylene, a divalent radical of an aliphatic dicarboxylic acid having 2 to 36 carbon atoms, or a cycloaliphatic or aromatic dicarboxylic acid having 8-14 carbon atoms or of an aliphatic, cycloaliphatic or aromatic dicarbamic acid having 8-14 carbon atoms, where each dicarboxylic acid may be substituted in the aliphatic, cycloaliphatic or aromatic moiety by one or two -COOZ<sub>12</sub> groups; or

R is a divalent radical of a phosphorus-containing acid or a divalent silyl radical;

R, if m is 3, is a trivalent radical of an aliphatic, cycloaliphatic or aromatic tricarboxylic acid, which may be substituted in the aliphatic, cycloaliphatic or aromatic moiety by -COOZ<sub>12</sub>, of an aromatic tricarbamic acid or of a phosphorus-containing acid, or is a trivalent silyl radical,

R, if m is 4, is a tetravalent radical of an aliphatic, cycloaliphatic or aromatic tetracarboxylic acid; p is 1, 2 or 3,

R<sub>1</sub> is C<sub>1</sub>-C<sub>12</sub>alkyl, C<sub>5</sub>-C<sub>7</sub>cycloalkyl, C<sub>7</sub>-C<sub>8</sub>aralkyl, C<sub>2</sub>-C<sub>18</sub>alkanoyl, C<sub>3</sub>-C<sub>5</sub>alkenoyl or benzoyl; when p is 1,

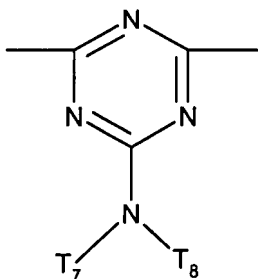
R<sub>2</sub> is C<sub>1</sub>-C<sub>18</sub>alkyl, C<sub>5</sub>-C<sub>7</sub>cycloalkyl, C<sub>2</sub>-C<sub>8</sub>alkenyl unsubstituted or substituted by a cyano, carbonyl or carbamide group, or is glycidyl, a group of the formula -CH<sub>2</sub>CH(OH)-Z or of the formula -CO-Z- or -CONH-Z wherein Z is hydrogen, methyl or phenyl; or

when p is 2,

R<sub>2</sub> is C<sub>2</sub>-C<sub>12</sub>alkylene, C<sub>6</sub>-C<sub>12</sub>-arylene, xylylene, a -CH<sub>2</sub>CH(OH)CH<sub>2</sub>-O-B-O-CH<sub>2</sub>CH(OH)CH<sub>2</sub>- group, wherein B is C<sub>2</sub>-C<sub>10</sub>alkylene, C<sub>6</sub>-C<sub>15</sub>arylene or C<sub>6</sub>-C<sub>12</sub>cycloalkylene; or, provided that R<sub>1</sub> is not alkanoyl, alkenoyl or benzoyl, R<sub>2</sub> can also be a divalent acyl radical of an aliphatic, cycloaliphatic or aromatic

dicarboxylic acid or dicarbamic acid, or can be the group -CO-; or R<sub>1</sub> and R<sub>2</sub> together when p is 1 can be the cyclic acyl radical of an aliphatic or aromatic 1,2- or 1,3-dicarboxylic acid; or

R<sub>2</sub> is a group

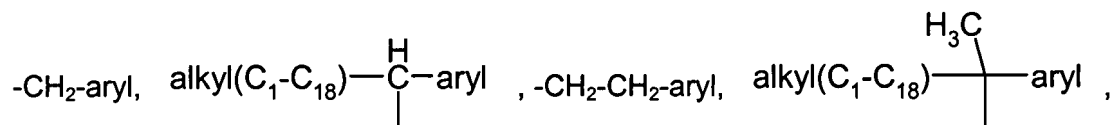


where T<sub>7</sub> and T<sub>8</sub> are independently hydrogen, alkyl of 1 to 18 carbon atoms, or T<sub>7</sub> and T<sub>8</sub> together are alkylene of 4 to 6 carbon atoms or 3-oxapentamethylene;

when p is 3,

R<sub>2</sub> is 2,4,6-triazinyl; and

X is selected from the group consisting of



(C<sub>5</sub>-C<sub>6</sub>cycloalkyl)<sub>2</sub>CCN, (C<sub>1</sub>-C<sub>12</sub>alkyl)<sub>2</sub>CCN, -CH<sub>2</sub>CH=CH<sub>2</sub>, (C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-(C<sub>1</sub>-C<sub>12</sub>)alkyl,

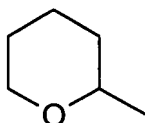
(C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-(C<sub>6</sub>-C<sub>10</sub>)aryl, (C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-(C<sub>1</sub>-C<sub>12</sub>)alkoxy,

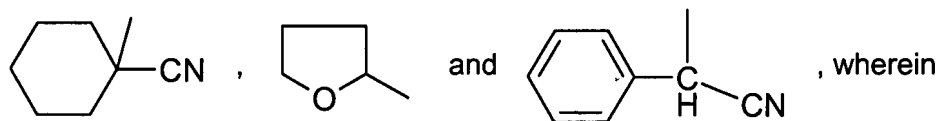
(C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-phenoxy, (C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-C(O)-N-di(C<sub>1</sub>-C<sub>12</sub>)alkyl,

(C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-CO-NH(C<sub>1</sub>-C<sub>12</sub>)alkyl, (C<sub>1</sub>-C<sub>12</sub>)alkyl-CR<sub>20</sub>-CO-NH<sub>2</sub>,

-CH<sub>2</sub>CH=CH-CH<sub>3</sub>, -CH<sub>2</sub>-C(CH<sub>3</sub>)=CH<sub>2</sub>, -CH<sub>2</sub>-CH=CH-phenyl, -CH<sub>2</sub>-C $\equiv$ CH, .....

3-cyclohexenyl, 3-cyclopentenyl,





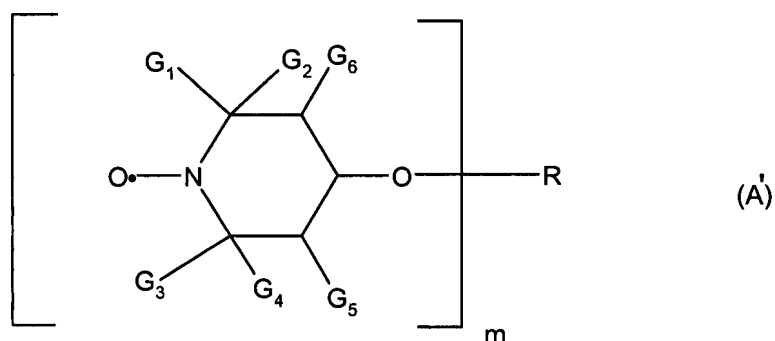
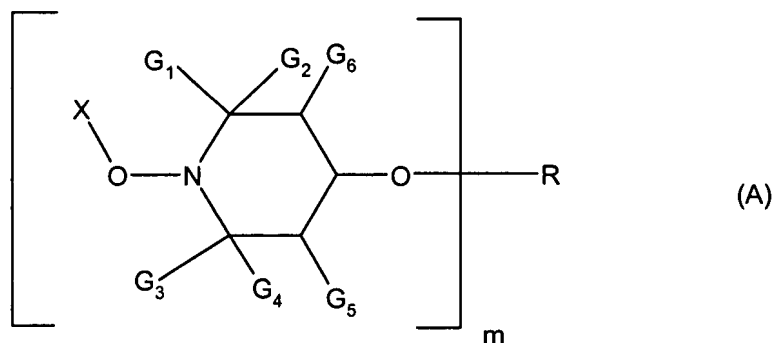
$R_{20}$  is hydrogen or  $C_1$ - $C_{12}$ alkyl;

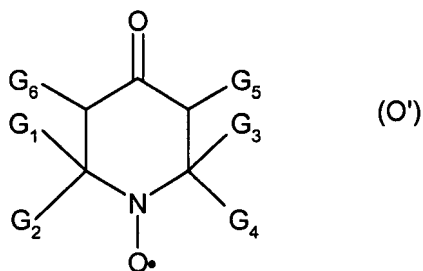
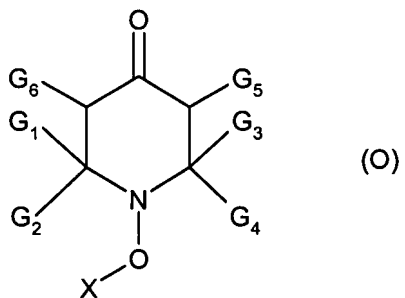
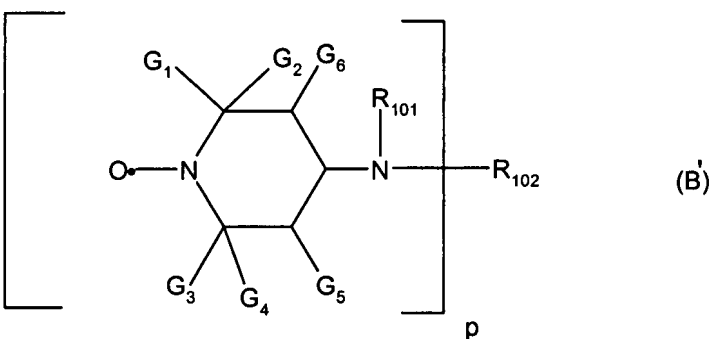
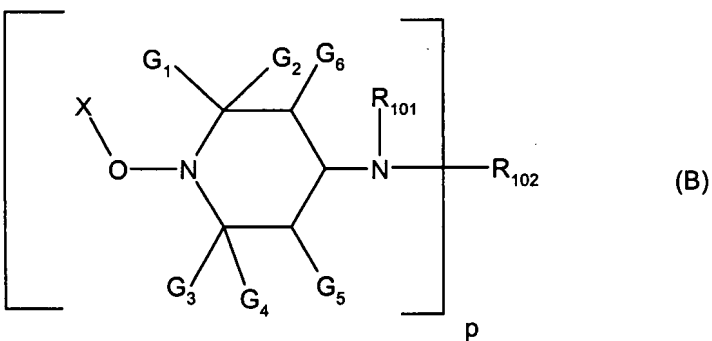
the alkyl groups are unsubstituted or substituted with one or more -OH, -COOH or  $-C(O)R_{20}$  groups;

and

the aryl groups are phenyl or naphthyl which are unsubstituted or substituted with  $C_1$ - $C_{12}$ alkyl, halogen,  $C_1$ - $C_{12}$ alkoxy,  $C_1$ - $C_{12}$ alkylcarbonyl, glycidylexy, OH, -COOH or  $-COO(C_1-C_{12})$ alkyl.

**8. (previously presented)** A process according to claim 7 wherein the nitroxyl ether or the nitroxyl radical is of formula A, A', B, B', O or O'





wherein

m is 1,

R is hydrogen, C<sub>1</sub>-C<sub>18</sub>alkyl which is uninterrupted or interrupted by one or more oxygen atoms, cyanoethyl, benzoyl, glycidyl, a monovalent radical of an aliphatic carboxylic acid having 2 to 18 carbon atoms, of a cycloaliphatic carboxylic acid having 7 to 15 carbon atoms, or an  $\alpha,\beta$ -unsaturated carboxylic acid having 3 to 5 carbon atoms or of an aromatic carboxylic acid having 7 to 15 carbon atoms;

p is 1;

R<sub>101</sub> is C<sub>1</sub>-C<sub>12</sub>alkyl, C<sub>5</sub>-C<sub>7</sub>cycloalkyl, C<sub>7</sub>-C<sub>8</sub>aralkyl, C<sub>2</sub>-C<sub>18</sub>alkanoyl, C<sub>3</sub>-C<sub>5</sub>alkenoyl or benzoyl;



R<sub>102</sub> is C<sub>1</sub>-C<sub>18</sub>alkyl, C<sub>5</sub>-C<sub>7</sub>cycloalkyl, C<sub>2</sub>-C<sub>8</sub>alkenyl unsubstituted or substituted by a cyano, carbonyl or carbamide group, or is glycidyl, a group of the formula -CH<sub>2</sub>CH(OH)-Z or of the formula -CO-Z or -CONH-Z wherein Z is hydrogen, methyl or phenyl;

G<sub>6</sub> is hydrogen and G<sub>5</sub> is hydrogen or C<sub>1</sub>-C<sub>4</sub>alkyl,

G<sub>1</sub>, G<sub>2</sub>, G<sub>3</sub> and G<sub>4</sub> are methyl; or

G<sub>1</sub> and G<sub>3</sub> are methyl and G<sub>2</sub> and G<sub>4</sub> are ethyl or propyl or G<sub>1</sub> and G<sub>2</sub> are methyl and G<sub>3</sub> and G<sub>4</sub> are ethyl or propyl; and

X is selected from the group consisting of

-CH<sub>2</sub>-phenyl, CH<sub>3</sub>CH-phenyl, (CH<sub>3</sub>)<sub>2</sub>C-phenyl, (C<sub>5</sub>-C<sub>6</sub>cycloalkyl)<sub>2</sub>CCN, (CH<sub>3</sub>)<sub>2</sub>CCN, -CH<sub>2</sub>CH=CH<sub>2</sub>, CH<sub>3</sub>CH-CH=CH<sub>2</sub> (C<sub>1</sub>-C<sub>4</sub>alkyl)CR<sub>20</sub>-C(O)-phenyl, (C<sub>1</sub>-C<sub>4</sub>)alkyl-CR<sub>20</sub>-C(O)-(C<sub>1</sub>-C<sub>4</sub>)alkoxy, (C<sub>1</sub>-C<sub>4</sub>)alkyl-CR<sub>20</sub>-C(O)-(C<sub>1</sub>-C<sub>4</sub>)alkyl, (C<sub>1</sub>-C<sub>4</sub>)alkyl-CR<sub>20</sub>-C(O)-N-di(C<sub>1</sub>-C<sub>4</sub>)alkyl, (C<sub>1</sub>-C<sub>4</sub>)alkyl-CR<sub>20</sub>-C(O)-NH(C<sub>1</sub>-C<sub>4</sub>)alkyl and (C<sub>1</sub>-C<sub>4</sub>)alkyl-CR<sub>20</sub>-C(O)-NH<sub>2</sub>, wherein R<sub>20</sub> is hydrogen or (C<sub>1</sub>-C<sub>4</sub>)alkyl.

**9. (original)** A process according to claim 7 wherein G<sub>2</sub> and G<sub>4</sub> are ethyl, G<sub>1</sub> and G<sub>3</sub> are methyl, G<sub>6</sub> is hydrogen and G<sub>5</sub> is methyl.

**10. (original)** A process according to claim 1 wherein the free radical initiator of component a2) is a bis-azo compound, a peroxide, a perester or a hydroperoxide.

**11. (original)** A process according to claim 1, wherein the nitroxylether of component a1) or the nitroxyl radical of component a2) is present in an amount of from 0.001 mol-% to 20 mol-%, based on the monomer or monomer mixture.

**12. (original)** A process according to claim 1, wherein the free radical initiator is present in an amount of from 0.001 mol-% to 20 mol-%, based on the monomer or monomer mixture.

**13. (previously presented)** A process according to claim 1, wherein the ethylenically unsaturated monomer is selected from the group consisting of styrene, substituted styrene, conjugated dienes,

vinyl acetate, vinylpyrrolidone, vinylimidazole, maleic anhydride, (alkyl)acrylic acidanhydrides, (alkyl)acrylic acid salts, (alkyl)acrylic esters, (meth)acrylonitriles, (alkyl)acrylamides, vinyl halides and vinylidene halides.

**14. (previously presented)** A process according to claim 12, wherein the ethylenically unsaturated monomer is a compound of formula  $\text{CH}_2=\text{C}(\text{R}_a)-(\text{C}=\text{Z})-\text{R}_b$ , wherein  $\text{R}_a$  is hydrogen or  $\text{C}_1\text{-C}_4$ alkyl,  $\text{R}_b$  is  $\text{NH}_2$ ,  $\text{O}^-(\text{Me}^+)$ , glycidyl, unsubstituted  $\text{C}_1\text{-C}_{18}$ alkoxy,  $\text{C}_2\text{-C}_{100}$ alkoxy interrupted by at least one N and/or O atom, or hydroxy-substituted  $\text{C}_1\text{-C}_{18}$ alkoxy, unsubstituted  $\text{C}_1\text{-C}_{18}$ alkylamino, di( $\text{C}_1\text{-C}_{18}$ alkyl)amino, hydroxy-substituted  $\text{C}_1\text{-C}_{18}$ alkylamino or hydroxy-substituted di( $\text{C}_1\text{-C}_{18}$ alkyl)amino,  $-\text{O}-\text{CH}_2-\text{CH}_2-\text{N}(\text{CH}_3)_2$  or  $-\text{O}-\text{CH}_2-\text{CH}_2-\text{N}^+\text{H}(\text{CH}_3)_2 \text{An}^-$ ;  $\text{An}^-$  is a anion of a monovalent organic or inorganic acid; Me is a monovalent metal atom or the ammonium ion and Z is oxygen or sulfur.

**15. (original)** A process according to claim 1 wherein step B) is performed in an extruder, mixer or kneading apparatus.

**16. (original)** A process according to claim 1 wherein in step B) additionally a processing stabilizer and/or antioxidant is added.

**17. (original)** A process according to claim 1 wherein in step B) additionally a radical generator is added.

**18. (currently amended)** A process according to claim 1 wherein the nitroxyl terminated polymer or oligomer of step A) has ~~an~~ ana number average molecular weight of from 1000 to 100 000 Dalton.

**19. (previously presented)** A process according to claim 1 wherein the nitroxyl terminated polymer or oligomer of step A) has a polydispersity (PD) from 1.0 to 2.0.

**20. (original)** A process according to claim 1 wherein the nitroxyl terminated polymer or oligomer of step A) is added to the thermoplastic or elastomeric polymer or copolymer in an amount from 0.1% to 50% by weight based on the weight of the thermoplastic or elastomeric polymer or copolymer.

**21. (canceled)**

**22. (canceled)**

The thermoplastic or elastomeric polymer or copolymer of the present claims is now specifically required to be those of amended claim 1. Unsaturated polyester is not included, setting a clear line of demarcation between the present claims and those of Kazmaier.

Further, unsaturated polyesters contain activated double bonds. The present thermoplastic or elastomeric polymers or copolymers do not. The success of the present invention cannot be obvious from the disclosure of Kazmaier.

In view of the present amendments and this discussion, Applicants submit that these 35 USC 102(a) and 35 USC 103(a) rejections are addressed and are overcome.

Claims 1-5 and 7-20 are rejected under 35 USC 102(e) or, in the alternative, under 35 USC 103(a) as being obvious over Chin, et al., U.S. Pat. No. 6,444,754.

The present claims are amended to specifically limit the definition of group "X". Glycidyoxy is not included. The polymers of component iii) of Chin are prepared in the presence of a glycidyl-functionalized nitroxyl initiator. Thus, there is now a clear line of demarcation between the present claims and the disclosure of Chin.

Thus Chin cannot anticipate the present claims.

Chin qualifies as 102(e) prior art.

The presently claimed invention and U.S. Pat. No. 6,444,754 were, at the time the invention was made, entirely assigned to Ciba Specialty Chemicals Corp. or were subject to an obligation of assignment to Ciba Specialty Chemicals Corp.

The assignment of U.S. Pat. No. 6,444,754 was recorded in the USPTO July 16, 2002, reel/frame 013091/0280.

The assignment of the present application was recorded in the USPTO July 5, 2005, reel/frame 016740/0233.

The 35 USC 103(a) rejections as applied to 35 USC 102(e) are overcome as the present application and cited Chin patent are commonly assigned to Ciba Specialty Chemicals Corp.

In view of the above statement, Applicants submit that the 35 USC 103(a) rejections over Chin are addressed and are overcome.

In view of the present amendments and the above discussion, Applicants submit that each of the present claim rejections are addressed and are overcome.

The Examiner is kindly requested to reconsider and to withdraw the present rejections.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

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